

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE C.V.RAMULU

WRIT PETITION No.18715 of 2000

Between:

E. Lalitha, W/o Govinda Rao, aged
About 58 years, Retd.Teacher,
Model High School, Zamisthanpur,
Hyderabad.

..... PETITIONER

AND

1. The Correspondent, Model High School,
Zamisthanpur, Hyderabad.
2. The District Educational Officer,
Hyderabad.
3. The Commissioner & Director of School
Education, Andhra Pradesh, Hyderabad.
4. The Regional Joint Director of School
Education, Hyderabad.
5. Government of Andhra Pradesh, represented
by its Secretary, Education Department,
Secretariat, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more in the nature of Mandamus declaring that the petitioner is deemed to have been absorbed as S.G.B.T. Teacher with effect from the date of first appointment i.e. 1.8.1980 with all consequential benefits, such as, revision of pay from time to time, pension and other retirement benefits i.e. gratuity, commutation etc., by holding the action of the respondents in absorbing the petitioner into grant-in-aid post only from 3-10-1997 instead of the date on which the post of S.G.B.T. held by her was admitted to grant-in-aid for absorption vide Proc.Rc.No.5997/A.III/98, dated 29-9-1999 issued by the Regional Joint Director of School Education, as illegal, arbitrary, discriminatory and subversive of Articles 14, 16 and 21 of the Constitution of India and also opposed to all canons of equity, justice and fair play.

Counsel for the Petitioner: Mr. D.LINGA RAO

Counsel for the Respondents: GP FOR SCHOOL EDUCATION

The Court made the following :

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring that the petitioner is deemed to have been absorbed as S.G.B. Teacher with effect from the date of her first appointment i.e. 1-8-1980 with all consequential benefits, such as, revision of pay scales from time to time, pension and other retirement benefits, such as, gratuity, commutation etc., by holding the action of the respondents in absorbing the petitioner into grant-in-aid post only from 3-10-1997 instead of 1-8-1980 as arbitrary and illegal.

It is the case of the petitioner that she passed SSC and also Bala Sevika Training course and was appointed as Bala Sevika Teacher (equivalent to SGBT) with effect from 1-4-1980 (against unaided vacancy) in the 1st respondent-school. The post held by her was subsequently admitted to grant-in-aid. Though the Bala Sevika Training is equivalent to SGBT as per G.O.Ms.No.143, Education, dated 3-6-1966 read with Government Memo.No.1249/H1/74-2, dated 13-6-1974 and though she was working in the grant-in-aid post, she was not paid the salary attached to the said post. Therefore, she filed Writ Petition No.17342 of 1992 before this Court seeking a direction against the respondents to grant permission for her absorption in the aided vacancy with effect from the date on which the post fell vacant and grant consequential benefits. The said Writ Petition was disposed of by this Court on 11-

10-1993 directing the Director of School Education to consider her case for absorption in the grant-in-aid post according to the Rules and pass appropriate orders. In pursuance of the above Judgment, the 1st respondent addressed a letter dated 17-6-1997 to the 3rd respondent requesting for exemption from passing SGBT/TTC and also referred to the earlier cases of similar nature. Based on the request of the 1st respondent, the 3rd respondent addressed a letter to the Government on 28-8-1997. The Government issued G.O.Ms.No.315, Education, dated 3-10-1997 relaxing Rule 74 of the Andhra Pradesh Education Rules, 1961 in her favour from possessing SGBT qualification as a special case for her absorption in grant-in-aid post. In view of these orders, she was required to be absorbed in the grant-in-aid post from the date of her first appointment i.e. 1-4-1980 with all consequential benefits. Since she was not paid salaries in grant-in-aid post, she filed another Writ Petition No.19193 of 1998 seeking to direct the respondents to consider her case for payment of salary attached to the grant-in-aid post of SGBT from the date on which it was admitted to grant-in-aid. In pursuance of an interim order dated 20-7-1998 her case was considered and her services were regularized in the unaided post with effect from 1-4-1980. Therefore, her appointment in the cadre of SGBT was regularized in the unaided post.

Now the grievance of the petitioner is that though she had worked from 1-4-1980 and on attaining the age of superannuation retired on 31-8-2000 she is not paid her pension. According to her, she is entitled for absorption from the date of first appointment i.e. 1-4-1980 in the SGBT post and, as such, counting her services even in the unaided post she is entitled for pension apart from other retrial benefits. Therefore, the Proceedings dated 29-9-1999 issued by the 4th respondent are arbitrary and illegal.

A detailed counter affidavit has been filed on behalf of respondents 2 to 5 denying the allegations made by the petitioner and supporting the impugned Proceedings.

I have heard the learned counsel for the parties and gone through the entire material made available on record.

The only question that falls for consideration is whether the petitioner is entitled for reckoning the service rendered by her from 1-4-1980 till her retirement on 31-8-2000 for the purpose of pension or not ?

The facts are not in dispute. There is no necessity of going into all other aspects. It is suffice to notice that the services of the petitioner in the SGBT post were regularized with effect from 1-4-1980 by an Order dated 7-12-1998 of the 2nd respondent, since as per the Governmental Orders issued she was exempted from undergoing SGBT course and Bala Sevika Training is equivalent to that of SGBT. Once her appointment in the unaided vacancy is regularized, she is automatically entitled for being appointed in the aided vacancy as and when it arises. In fact, the respondents themselves have conceded that the petitioner is eligible for absorption in grant-in-aid post from the date when the post is kept vacant i.e. from 1-4-1990. However, they have denied that the petitioner is entitled for being absorbed in the grant-in-aid post from 1-4-1980. Admittedly, as on 1-4-1980 she was not appointed against a grant-in-aid post. She was eligible for being appointed in the grant-in-aid post only with effect from 1-4-1990 when the post fell vacant. Therefore, the petitioner is entitled for absorption into grant-in-aid post from 1-4-1990. Since the petitioner is entitled for absorption against a grant-in-aid post with effect from 1-4-1990, the respondents are directed to consider the payment of pension and other benefits for the service rendered by her in the grant-in-aid post from 1-4-1990 to 31-8-2000 and also reckoning any permissible portion of the service rendered by her in the unaided post for the purpose of payment of pensionary benefits.

In the result, the Writ Petition is allowed to the above extent. The respondents are directed to consider the case of the petitioner for sanction of pension etc., as stated above, within a period of three months from the date of receipt of a copy of this order. No order as to costs.

07-07-2005

prk

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this the Thursday, Seventh day of July Two thousand and Five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Correspondent, Model High School,
Zamisthanpur, Hyderabad.

2. The District Educational Officer,
Hyderabad.

3. The Commissioner & Director of School
Education, Andhra Pradesh, Hyderabad.

4. The Regional Joint Director of School
Education, Hyderabad.

5. The Secretary, Education Department,
Government of Andhra Pradesh,
Secretariat, Hyderabad.

6. 2 CCs to Govt. Pleader for School Education, High Court Buildings, Hyderabad (OUT).

7. 2 CD copies